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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,788	10/27/2003	Aaron L. Mills	FGT 1867 PA	2787
28549	7590	11/30/2007	EXAMINER	
Dickinson Wright PLLC 38525 Woodward Avenue Suite 2000 Bloomfield Hills, MI 48304			MANCHO, RONNIE M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/605,788	Applicant(s) MILLS ET AL.	
	Examiner Ronnie Mancho	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ³ MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 4,5 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3, 6-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, "the group" lacks antecedent basis.

The rest of the claims are rejected for depending on a rejected base claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samukawa et al (2002/0003489) in view of Wolfe (2005/0228551).

Regarding claim 1, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose a wireless vehicle communication update system (steps S32, S33, fig. 5; steps S322, S323, fig. 7) for a vehicle comprising:

a vision sensor 5 (laser sensor, sec. 0048) coupling a vehicle body of the vehicle and wirelessly detecting a vehicle information signal from an off-board vehicle setting update device (object, sec. 0048) having setting information for the vehicle; and

a vehicle controller 3 (fig. 1) comprising logic to update (figs. 5, 7; sec. 0078-0080) at least one of a group of software setting, system configuration, performance setting, or safety setting of the vehicle in response to said vehicle information signal (sec. 0048-0051).

Samukawa disclose the system above, but did not mention a vehicle under production. However, Wolfe (abstract, fig. 1; sec. 0014-0019) teaches of a vehicle under production, wherein vision systems are tested before installation in a vehicle. Therefore, it would have been obvious to one skilled in the art to modify Samukawa as taught by Wolfe for the purpose of testing the Samukawa vision system when the vehicle is under production before the system is actually used on a road.

It is further noted that applicant admits in the specification that during production of a vehicle, vehicle settings and configurations are enabled to satisfy customer preference and other requirements; applicant's specification section 004. Therefore, the prior art vehicle must have gone through a vehicle production line.

Regarding claim 2, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor comprises at least one vision sensor selected from a camera, a charged-coupled device (section 0035).

Regarding claim 3, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from a passive off-board vehicle setting update device.

Regarding claim 6, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said vision sensor detects said vehicle information signal from an off-board vehicle setting update system.

Regarding claim 7, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 6 wherein said off-board vehicle setting update system comprises:

a transmitter transmitting (fig. 1) said vehicle information signal in response to a pulse-coded signal (see echo beam, sec 0050);

a signal generator generating said pulse-coded signal (transmitting and receiving portion 5, sec. 0048); and

an update controller 3 (figs. 1, 5, 7) determining said at least one vehicle setting to update and causing generation and transmission of said pulse-coded signal and said vehicle information signal in response to said at least one vehicle setting (sections 0048-0051, 0078-0080).

Regarding claim 8, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 further comprising:

a signal processor receiving and formatting said vehicle information signal for said vehicle controller, said vehicle controller updating said at least one vehicle setting in said formatted vehicle information signal response to said formatted vehicle information signal (sections 0048-0051, 0078-0080).

Regarding claim 9, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 wherein said controller in updating said at least one setting comprises adjusting at least one setting selected from a memory setting (sections 0048-0051, 0078-0080).

Regarding claim 10, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system of claim 1, wherein said controller in updating said at least one setting updates a setting selected from at least one of a vehicle performance setting, a vehicle safety setting, a vehicle software setting, system configuration, or an audio setting in response to said vehicle information signal (sec. 0048-0051).

Regarding claim 11, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim 1 further comprising an indicator 17, 13 (fig. 2) coupled to said vehicle controller and indicating at least one current vehicle setting (sections 0048-0051, 0078-0080).

Regarding claim 12, Samukawa (abstract, figs. 1-5, 7, sections 0048-0051) disclose the system as in claim further comprising an indicator coupled to said vehicle controller and indicating when said vehicle information signal is received (sections 0048-0051, 0078-0080).

MPEP 2114

The statement of intended use or field of use, “under production”, “updating-----in response to”, “transmittingin response to”, “determining.....to”, “causing generation and transmission of.....in response to”, “receiving and formatting”, “updating.....in response to”, “updating.....comprises adjusting”, “indicating when.....is received”, etc clauses are essentially method limitation or statement of intended or desired use. Thus, the claim as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See MPEP § 2114 which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from the prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than functions. Apparatus claims cover what a device is not what a device does. As set forth in MPEP § 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

The prior art is only required to be capable of performing the intended use limitations to read on the claims. Applicant may overcome MPEP 2114 by using language such as --a vehicle controller configured to update, etc-- to overcome MPEP 2114.

Response to Arguments

5. Applicant's arguments with respect to claims 1-3, 6-12 have been considered but are moot in view of the new ground(s) of rejection.

The 112 rejections drawn to "vehicle setting" and "passive off-board setting" are withdrawn in view of applicant's admission.

Communication

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho
Examiner
Art Unit 3663

11/21/2007

JACK KEITH
SUPERVISORY PATENT EXAMINER